



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,448	09/30/2003	Laxmi P. Parida	YOR920030199US1(590.110)	7560

35195 7590 11/22/2006

FERENCE & ASSOCIATES
409 BROAD STREET
PITTSBURGH, PA 15143

EXAMINER

TRAN, MAI T

ART UNIT PAPER NUMBER

2129

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/676,448	Applicant(s) PARIDA ET AL.	
	Examiner Mai T. Tran	Art Unit 2129	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-9.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.


 David Vincent
 Supervisory Patent Examiner
 Tech Center 2100

Continuation of 11. does NOT place the application in condition for allowance because: The Examiner withdraws the rejection to the dependent claims 4 and 8 under 35 U.S.C. § 112 2nd paragraph according to applicants' amendment. Applicants' arguments regarding the rejection under 35 U.S.C. § 101, 35 U.S.C. § 112 1st paragraph, 35 U.S.C. § 102 have all been responded in the Final Office Action dated September 6, 2006.

To clarify the record, Applicants are reminded that in the Final Office Action dated September 6, 2006, the claimed invention is rejected under 35 U.S.C. § 101 on page 2 and page 3 because it is directed to non-statutory subject matter. Examiner notes the fact that claims are defined by their limitations. Section 101 requires such claims to further contain limitations to practical application. The claimed invention is ineligible because it has not been limited to a practical application and not rejected under the "technological art test" as Applicants alleged. It is respectfully requested that Applicants specifically indicate the portion or portions of the rejection providing this allegation.

Applicants' argument regarding the rejection under 35 U.S.C. § 102, especially "a crucial part of the instant invention relates to formulating a query to identify objects having properties of interest. There is no teaching or suggestion in Marshall as to how the query was formulated". Applicants are reminded that during patent examination, the claims are given the broadest reasonable interpretation consistent with the specification. In the present case, Marshall teaches in paragraph 2, page 2724, a rule was developed for classification i.e. formulating. The Examiner asserts the rule (1) and (2) which are boolean expressions, on page 2724 read on "a query". By the way, this is also a 112 1st paragraph issue since Applicants have not disclosed how they formulate a query.